

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHAUNCY HARRISON,

Plaintiff,

vs.

Case No. 05-CV-74587
HON. GEORGE CARAM STEEH

OFFICER RUSSELL, and
OFFICER GARNER,

Defendant.

_____/

ORDER OVERRULING PLAINTIFF'S OBJECTION (#44) TO
MAGISTRATE JUDGE'S AUGUST 10, 2007 ORDER DENYING
PLAINTIFF'S MOTION FOR DISCOVERY WITHOUT PREJUDICE

____ Plaintiff Chauncy Harrison objects to Magistrate Judge Donald Scheer's August 10, 2007 Order denying Harrison's motion for discovery and depositions without prejudice. Pursuant to E.D. Mich. Local R. 7.1(e)(2), it is ORDERED that the objection be resolved without oral argument.

Harrison, who is incarcerated, filed this civil rights lawsuit pro per on December 5, 2005 alleging defendant Detroit Police Officers Russell and Garner handcuffed and beat him without provocation on October 29, 2004. On February 9, 2007, Harrison filed the instant motion for discovery and depositions. On August 10, 2007, Harrison was first assigned counsel. On that same day, August 10, 2007, Magistrate Judge Scheer denied Harrison's February 9, 2007 discovery motion without prejudice and scheduled a status conference for August 30, 2007. Harrison objects to ensure that he is not deemed to have

waived any objections to the denial of discovery, and asserts he will renew his request for discovery at the status conference.

A district court shall consider objections to a magistrate judge's non-dispositive orders, and shall modify or set aside any portion of the orders found to be clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A). A ruling is clearly erroneous if, upon review of the record, the district court is left with a definite and firm conviction that a mistake has been made. Patterson v. Heartland Industrial Partners, LLP, 225 F.R.D. 204, 205 (N.D.Ohio 2004) (quoting United States v. Hurst, 228 F.3d 751, 756 (6th Cir.2000)).

Magistrate Judge Scheer's August 10, 2007 ruling was neither clearly erroneous nor contrary to law. It was well within Magistrate Judge Scheer's discretion to deny Harrison's pro se motion for discovery and depositions without prejudice in favor of a subsequent status conference at which Harrison's newly appointed counsel may address all outstanding discovery issues. The court is not left with a definite and firm conviction that a mistake has been made. Accordingly,

Harrison's objection is hereby OVERRULED.

SO ORDERED.

Dated: August 28, 2007

s/George Caram Steeh

GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on August 28, 2007, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk